



CHAIRMAN

Federal Communications Commission

Washington, D.C.

May 5, 2004

03-123

98-67 ✓

DOCKET FILE COPY ORIGINAL

The Honorable John T. Doolittle
U.S. House of Representatives
2410 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Doolittle:

Thank you for your letter of April 8, 2004, concerning the proceeding pending at the Commission regarding the per-minute compensation rate for the provision of Video Relay Service ("VRS"). Please be assured that we understand the importance of these services to persons with hearing and speech disabilities, and in particular the advantages of VRS as a form of Telecommunications Relay Service ("TRS"). As an initial matter, I am concerned that some constituents might have suggested that they have experienced problems with the level of service since the Commission's Consumer & Governmental Affairs Bureau adjusted the compensation rate. We are not aware of any degradation in service. However, our Disability Rights Office in the Commission's Consumer & Governmental Affairs Bureau is available to meet with members of the deaf and hard of hearing community regarding any concerns that they might have in this regard. Please let me know if your constituents would like to have such a meeting.

In a June 27, 2003 *Order* the Bureau modified the TRS Fund administrator's proposed compensation rate of \$14.023 for VRS for the July 2003 to June 2004 fund year. The Bureau concluded that, on an interim basis, the appropriate per-minute rate should be \$7.751. On July 30, 2003, five VRS providers filed petitions for reconsideration of the June 27th *Order*, challenging the adoption of the \$7.751 per-minute interim VRS compensation rate. In connection with these petitions, various VRS providers submitted supplemental cost data. The Commission is continuing its review of the data, as well as the arguments set forth in the petitions for reconsideration, and will complete its efforts as expeditiously as possible.

It is certainly the case that markedly more consumers are enjoying this service. This remains true even though VRS is presently not a mandatory service, and generally is available only to individuals with hearing or speech disabilities who have access to broadband services. Even given the interim (reduced) VRS compensation rate, a new VRS provider entered this already competitive market, increasing the number of VRS providers to seven.

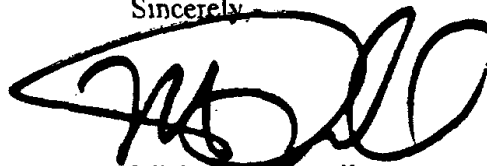
Since release of the June 27th *Order* and the interim compensation rate became effective, we have seen enormous growth in the minutes of use for VRS. In May 2003, there were 189,422 minutes of use of VRS. By January 2004, that number had risen to 477,538. In February 2004, the most recent month for which we have data, the number of VRS minutes rose to 534,536. Since the adoption of the interim VRS compensation rate, the use of VRS has increased over

180%. Indeed, as a result of this significant growth of monthly minutes of use of VRS (as well as of IP Relay) over initial projections, it became necessary earlier this year to increase the carrier contribution rate and the Interstate TRS Fund size for the July 2003 through June 2004 fund year. As a result of this adjustment, the Interstate TRS Fund will increase from approximately \$115 million to \$170 million.

To the extent that there are concerns that the interim VRS compensation rate is somehow inconsistent with the TRS mandate (or unfair to providers), it bears emphasizing that Title IV of the Americans with Disabilities Act, which instituted TRS, requires that TRS providers be allowed to recover their "reasonable" costs of providing the service. For interstate TRS (and, currently, some intrastate TRS, like VRS) the compensation is paid from the Interstate TRS Fund, which is funded by all consumers of interstate telecommunications services through a service charge collected by interstate carriers. The initial compensation rate for VRS was \$5.14 per minute, and the proposed rate of \$14.023 per minute would have more than doubled this amount in a three-year span. By contrast, text-based TRS has been compensated at rates ranging from \$1.16 to \$1.70 per minute. Because TRS is free to consumers, and the providers of TRS recover their costs of providing the service, part of our responsibility in regulating the TRS is ensuring the integrity of the Interstate TRS Fund and, in turn, all consumers that contribute to the Fund. For this reason, the Commission must ensure that the compensation paid from the Fund is just and reasonable.

The Commission will consider carefully the entire record developed in this proceeding as it examines the Bureau's June 27th decision. For your convenience, I am enclosing a copy of the June 27, 2003 Bureau *Order* adopting the interim VRS compensation rate, and the February 23, 2004 Bureau *Order* increasing the contribution factor. I appreciate your taking the time to let me know of your concerns in this matter. Please let me know if you have any further questions or concerns.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read 'M. Powell', is written over the word 'Sincerely'.

Michael K. Powell

Enclosures

JOHN T. DOOLITTLE
4TH DISTRICT, CALIFORNIA

HOUSE REPUBLICAN CONFERENCE
SECRETARY

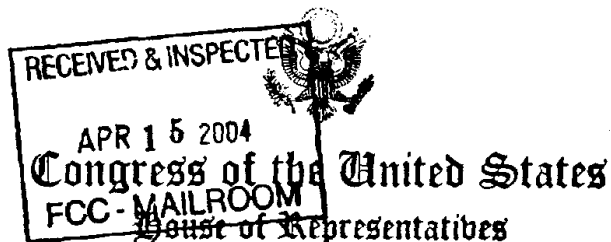
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April 8, 2004

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Michael K. Powell, Chairman
Federal Communications Commission
445 12th Street SW, Room 8B 201
Washington, DC 20554

RE: Video Relay Service

Dear Chairman Powell:

I was recently contacted by constituents in my district who provide Video Relay Service ("VRS") to deaf and hard of hearing persons. It is my understanding that this program is experiencing funding, staffing, and hours of service problems based on a recent FCC ruling and I would appreciate a review of the current standing and regulation of this program.

On June 30, 2003 the FCC set an interim reimbursement rate for VRS at \$7.751 (DA 03-2111). Due to this rate change, VRS is currently not available on a 24 hour basis to those needing this valuable service. Furthermore, VRS users now face considerable wait times to access the service to place a call, often for several minutes. Finally, this funding cut has forced providers to work interpreters beyond recommended limits, risking repetitive motion injury. It is my understanding that in addition to complaints that you have received from VRS providers; your agency has received complaints from the deaf and hard of hearing community.

I find this issue troubling and contrary to Section 225(d)(2) of the Communications Act, which requires that the FCC's regulations not discourage or impair the development of improved relay service technology. In addition, I question whether the FCC is adhering to the requirement of Section 225(d)(1)(c), that relay services be available on a 24 hour basis.

I request you advise me on the steps the FCC is taking to address these issues with VRS service and urge you and your fellow commissioners to take the necessary steps to ensure that VRS has sufficient funding available so that deaf and hard of hearing persons have on demand access to this service just as you and I have on demand access to telephone service.

Sincerely

John T. Doolittle
Member of Congress

cc: Commissioner Kathleen Q. Abernathy
Commissioner Michael J. Copps
Commissioner Kevin J. Martin
Commissioner Jonathan S. Adelstein

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